



# UNITED STATES PATENT AND TRADEMARK OFFICE

57  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,603	02/22/2002	Ming Yan	LWM-A078	5733

7590 03/24/2004

WAGNER, MURABITO & HAO LLP  
Third Floor  
Two North Market Street  
San Jose, CA 95113

EXAMINER

PAK, SUNG H

ART UNIT	PAPER NUMBER
----------	--------------

2874

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/082,603	<b>Applicant(s)</b> YAN ET AL.	
	<b>Examiner</b> Sung H. Pak	<b>Art Unit</b> 2874	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0202</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Information Disclosure Statement*

All references cited in the information disclosure statement filed 2/22/2002 have been considered. Please refer to the initialed copy of PTO-1449 enclosed herewith.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. **It is important that the abstract not exceed 150 words in length** since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 6-10, 12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al (US 5,940,548).

Yamada et al reference discloses an optical device with all the limitations set forth in the claims, including: measuring a phase error of a plurality of waveguide cores of an arrayed

Art Unit: 2874

waveguide grating using a low coherent optical interferometer (column 14 lines 34-41); adjusting the refractive indexes of the respective cores in accordance with the measured phase error values via a laser (column 14 lines 42-44). Adjusting the refractive indexes of the cores effectively changes the optical path lengths and optimizes the response of the arrayed waveguide grating.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 5, 11, 13, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al (US 5,940,548).

Regarding claims 3, and 11, Yamada et al reference discloses an optical device with all the limitations set forth in the claims as discussed above, except it does not explicitly disclose that phase errors are measured to within nanometer resolution. However, measuring phase errors

Art Unit: 2874

within nanometer resolution is known in the art. Nanometer resolution is advantageous and desirable because it allows for accurate and precise adjustment of phase error, which is desirable in building reliable optical communications device. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Yamada et al device to have nanometer resolution phase error measurement.

Regarding claims 5,13, and 17, Yamada et al reference discloses an optical device with all the limitations set forth in the claims as discussed above, except it does not explicitly teach the use of ultraviolet laser energy. However, the use of ultraviolet laser in changing refractive indexes of optical waveguides is well known and common in the art. The use of ultraviolet laser is advantageous and desirable because it provides a simple and cost-effective way of modifying refractive indexes of optical waveguides without having to impart structural changes to the waveguides. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Yamada et al device to use ultraviolet lasers.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 20030035640A1- paragraph [0080], US 20010051018A1- paragraph [0043], and US 6442311B1- column 1 lines 59-62 all describe a method of adjusting refractive indexes of waveguiding cores in accordance with measured phase error values.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sung H. Pak whose telephone number is (571) 272-2353. The examiner can normally be reached on Monday - Thursday : 6:30am- 5:00pm.

Art Unit: 2874

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sung H. Pak  
Examiner  
Art Unit 2874

sp



HEMANG SANGHAVI  
PRIMARY EXAMINER